August 20, 2002	Committee	
	Report No.	02-103

Honorable Chair and Members of the County Council County of Maui Wailuku, Maui, Hawaii

#### Chair and Members:

Your Land Use Committee, having met on July 29, 2002, makes reference to County Communication No. 02-119, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2556 (1997) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO DOUGLAS AND SANDY AKINA, DBA AKINA ALOHA TOURS, TO OPERATE A BUS TRANSPORTATION FACILITY AND RELATED ACTIVITIES WITHIN THE COUNTY R-2 RESIDENTIAL DISTRICT, FOR PROPERTY SITUATED AT 140 ALAHELE PLACE, KIHEI, MAUI, HAWAII".

The purpose of the proposed bill is to grant a 20-year time extension to the five-year Conditional Permit granted by Ordinance No. 2556, to Douglas and Sandy Akina, dba Akina Aloha Tours, allowing for the continued operation of a bus transportation facility located at 140 Alahele Place, Kihei, Maui, Hawaii (TMK: 3-9-017:28 & 35).

Your Committee notes that the Maui Planning Commission held a public hearing and meeting on the Conditional Permit application on March 25, 2002. After reviewing the findings presented in the document entitled "MAUI PLANNING DEPARTMENT'S REPORT AND RECOMMENDATION TO THE MAUI PLANNING COMMISSION MARCH 25, 2002 MEETING", the Commission voted to recommend approval of the request for a County Conditional Permit subject to the following conditions:

- 1. That the Conditional Permit shall be limited to the dispatching, storage, and minor repairs to commercial transportation vehicles and shall not be expanded beyond twenty-one (21) motor coaches, as defined and regulated by the Public Utilities Commission.
- 2. That the Conditional Permit shall be valid for a period of twenty (20) years from the effective date of the ordinance amending Ordinance

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No. 2556; provided, that an extension of this Permit beyond this twenty (20) year period may be granted pursuant to Section 19.40.090, Maui County Code.

- 3. That the hours of operation shall be limited to 4:00 a.m. to 10:00 p.m.
- 4. That no customers/tour groups shall come to the property.
- 5. That the individual wastewater disposal system shall be abandoned and the property shall connect to the County Sewer System.
- 6. That full compliance with all applicable governmental requirements shall be rendered.
- 7. That the Conditional Permit shall be nontransferable.
- 8. That the Douglas and Sandra Akina, their successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at their own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending Douglas and Sandra Akina and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Douglas and Sandra of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this permit. A copy of a policy naming County of Maui as an additional named insured shall be submitted to the

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Department within ninety (90) calendar days from the effective date of the ordinance amending Ordinance No. 2556.

5. That Douglas and Sandra Akina shall develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.

Your Committee further notes that the recommendation of the Maui Planning Commission was based upon the following conclusions:

- 1. There is no evidence that the ongoing use will be significantly detrimental to the public interest, convenience, and welfare.
- 2. The proposed use will be in harmony with the area.

By correspondence dated July 25, 2002, the Chair of your Committee transmitted correspondence dated July 24, 2002, from Mike A. J. Salzer, President, Ocean Activities Center; and Roy and Gwen Elf, respectively, supporting the proposed bill.

By correspondence dated July 26, 2002, the Acting Council Chair transmitted correspondence dated July 24, 2002, from State Representative Kika G. Bukoski; dated July 25, 2002, from Leianna King-Jones; and dated July 25, 2002, from State Senator Jan Yagi–Buen, supporting the proposed bill.

By correspondence dated July 26, 2002, the Akinas' attorney, Lee A. Ohigashi, refuted concerns regarding the impacts of the bus transportation facility.

At its meeting, your Committee met with the Director of Public Works and Waste Management; the Deputy Planning Director; a Staff Planner from the Department of Planning; two Deputy Corporation Counsel; and Sandra "Sandy" Akina and Lee A. Ohigashi, Esq. representing the applicants.

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Your Committee received written testimony in support of the proposed bill from Sandra "Sandy" Akina and Scott M. Suda. Your Committee received public testimony in support of the proposed bill from relatives and employees of the Akinas, representatives of Hawaiian cultural groups, and other members of the public. The testifiers indicated that the transportation services provided by the Akinas facilitate economic development and have been appreciated by the Maui community for several decades, that the impacts of the bus transportation facility on the surrounding neighborhood are minimal, and that the Akinas should be commended for operating a successful local business.

Your Committee indicated its substantial agreement with the public testimony. Based on the Akinas' outstanding record in the community, your Committee revised the proposed bill to provide a 30-year extension of the Conditional Permit. Your Committee further revised the proposed bill to: (1) specify that the Conditional Permit be granted to the entity that actually operates the bus transportation facility (Akina Aloha Tours, Inc.); and (2) provide that the Conditional Permit shall be void if the Akinas transfer control of the corporation to third persons other than their children. The purposes of this revision are to follow the recent Council practice of specifically granting a Conditional Permit to the entity that would be officially utilizing the Conditional Permit and to ensure that there will not be a need for a new Conditional Permit should the Akinas' children assume control of the corporation within the next 30 years. Your Committee voted to recommend passage of the proposed bill, as revised.

Your Committee is in receipt of a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2556 (1997) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO AKINA ALOHA TOURS, INC., TO OPERATE A BUS TRANSPORTATION FACILITY AND RELATED ACTIVITIES WITHIN THE COUNTY R-2 RESIDENTIAL DISTRICT, FOR PROPERTY SITUATED AT 140 ALAHELE PLACE, KIHEI, MAUI, HAWAII". The revised proposed bill incorporates your Committee's revisions to the proposed bill transmitted by County Communication No. 02-119.

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Your Land Use Committee RECOMMENDS the following:

- 1. That Bill No. \_\_\_\_\_\_\_ (2002), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2556 (1997) PERTAINING TO THE GRANTING OF A CONDITIONAL PERMIT TO AKINA ALOHA TOURS, INC., TO OPERATE A BUS TRANSPORTATION FACILITY AND RELATED ACTIVITIES WITHIN THE COUNTY R-2 RESIDENTIAL DISTRICT, FOR PROPERTY SITUATED AT 140 ALAHELE PLACE, KIHEI, MAUI, HAWAII" PASS FIRST READING and BE ORDERED TO PRINT; and
- 2. That County Communication No. 02-119 be FILED.

Adoption of this report is respectfully requested.

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ALAN M. ARAKAWA	Chair	DANNY A. MATEO	Member
ROBERT CARROLL	Member	MICHAEL J. MOLINA	Member
G. RIKI HOKAMA	Member	WAYNE K. NISHIKI	Member
JO ANNE JOHNSON	Member	CHARMAINE TAVARES	Member
DAIN P. KANE	Member		